Wisconsin Motor Carriers Association

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February 4, 2010

To: Members,
    Senate Transportation, Tourism and Natural Resources Committee

Subject: SB 506

On behalf of the Wisconsin Towing Association, a division of the Wisconsin Motor Carriers Association, I am here today in support of Senate Bill 506, which would amend Wisconsin statute 779.415 relating to liens on motor vehicles for towing and storage.

This legislation is very important to Wisconsin's towing and recovery industry because Wisconsin statute 779.715 is often the only way operator's may legally dispose of wrecked, disabled and abandoned motor vehicles and receive at least some compensation for the service of recovering, towing and storing those vehicles.

Most often operators are paid for their services by vehicle owners or their insurers and it is not necessary to enforce their lien rights. However many owners simply abandoned their vehicle when the costs of repair as well as towing and storage exceed the value of the vehicle. Then the burden of disposal falls on the operator as most local units of government choose not to assume their statutory responsibility under s. 342.40 to deal with abandoned motor vehicles. Thus the only legal means of disposition for the operator is lien enforcement under s. 779.415.

Vehicles that have value are almost always claimed, and if not by the owner, by a lending institution with a perfected security interest through repossession. Under this scenario, operators must give up the vehicle to the lending institution (senior lien holder) upon payment of amounts less than their actual towing and storage charges. These amounts have been given a priority over the lending institution's security interest and are currently for automobiles at $7 a day for storage and $75 for recovery and towing. These amounts were last adjusted with 1995 Wisconsin Act 62. The industry believes these priority amounts should reflect at a minimum the inflationary impact on the cost of doing business since 1995.

The industry has also asked for changes in the statute that will clarify terms and provisions to make it easier to use and make it consistent with the mechanic's lien law at 779.41. The rationale and details for each change is noted below.
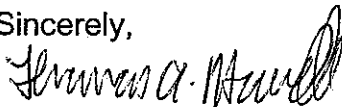
1. 779.415(1) (a) "manufacture's gross weight rating" in lieu of "gross weight." This change makes the criteria for determining the size of a motor vehicle the same statutory language as noted in 779.41 – Mechanic's liens. This is the customary manner in which vehicle size is determined in most regulations.

2. Change the current priority amount of $75 for towing a motor vehicle having a gvwr of 20,000 lbs. or less to $100. The current priority amount was enacted by1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to $104.50.

3. Change the current priority amount of $250 for towing a motor vehicle having a gvwr of more than 20,000 lbs. to $350. The current priority amount was enacted by 1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to $348.47.

4. Change the current priority amount of $7 for storing a motor vehicle having a gvwr of 20,000 lbs. or less to $10 per day for a total amount of not more than $600 (60 days). The current priority amount was enacted by 1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to $9.76.

5. Change the current priority amount of $20 for storing a motor vehicle having a gvwr of more than 20,000 lbs. to $25 per day for a total amount of not more than $1,500 (60 days). The current priority amount was enacted by1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to $27.88.

6. Adjust the vehicle value for enforcement under 779.48(2) to $750. The current amount of $500 was last changed by enactment of 1995 Wisconsin Act 62. Using the CPI Calculator, that amount would be $696.93.

7. Add the word "exclusively" to the last sentence of sub. (1) (a) to insure that the lien on vehicles valued less than $500 (proposed $750) is enforced under sub. 2

8. Add a paragraph to adjust the dollar amounts in Sub (1) (a) according to the annual CPI. This would make 779.415 consistent with the same provision in 779.41 – Mechanic's lien.

9. Amend paragraph (1m) to eliminate any ambiguity that the provision to repossess a motor vehicle after paying the priority amounts for towing and storage is exclusive to parties with a lien perfected under Chapter 342.

10. In paragraph (2), provide that notice may be given to owner(s) and lien holder(s) by certified mail rather the registered mail. Certified mail provides for documentation that notice was sent and is more economical than registered mail.

11. There are at least ten definitions of "motor vehicle" or "vehicle in the current Wisconsin statutes. To eliminate any confusion of which should apply to s. 779.415 and to insure that the many conveyances that are towed and recovered are applicable to the law, the proposed legislation provides the more inclusive definition of "vehicle" at s. 29.001(87) apply.

> 29.001(87) "Vehicle" means any device for moving persons or property or pulling implements from one place to another on land or rails or in the air.

We would appreciate your support of Senate Bill 506.

Sincerely,

Thomas A. Howells
President